

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

IN THE UNITED STATES DISTRICT COURT
FOR THE _____ DISTRICT OF TEXAS
_____ DIVISION

United States Courts
Southern District of Texas
FILED

SEP 29 2020

David J. Bradley, Clerk of Court

Plaintiff's Name and ID Number

Place of Confinement

CASE NO. **4:20cv3445**
(Clerk will assign the number)

v.

Defendant's Name and Address

Defendant's Name and Address

Defendant's Name and Address
(DO NOT USE "ET AL.")

new 1983 Civil Rights
Case. Nos. 550
Plaintiff: David Spates
Defendant: Harris County
Jail

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

FILING FEE AND IN FORMA PAUPERIS (IFP)

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of **\$400.00**.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "...if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

CHANGE OF ADDRESS

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "**NOTICE TO THE COURT OF CHANGE OF ADDRESS**" and shall not include any motion for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

A. Have you filed any other lawsuit in state or federal court relating to your imprisonment? YES ☒ NO

B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit: _____
2. Parties to previous lawsuit:
Plaintiff(s) _____
Defendant(s) _____
3. Court: (If federal, name the district; if state, name the county.) _____
4. Cause number: _____
5. Name of judge to whom case was assigned: _____
6. Disposition: (Was the case dismissed, appealed, still pending?) _____
7. Approximate date of disposition: _____

II. PLACE OF PRESENT CONFINEMENT: Harris County Jail

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure? YES NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: David Eugene Spates #00283945
701 N. San Jacinto St.
Houston, Texas 77002

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: Harris County Jail: A Harris Co. Detention
Officer had me jumped by 4 young Black inmates

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #2:

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #3:

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #4:

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #5:

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

When I was arrested May 2016 I thought I was having a Heart Attack, the officer took me to the Hospital for exam. The Doctor said I was fine. While processing in to Harris Co. Jail an officer in a White Shirt Detention Office was saying My name wrong. I ask her to pronounce My Sr. name Correctly. She told me "that she could say it anyway she wanted to" I told her "I just want answer to it." She informed me that she would put my card in back of the stack, she was Mad at me, she then ask the (4) young Black Men/Boys "if they was going to let this Old White Man Put them back another Day" and told them to do something about it and Shoot the door. So they Beat me up.

VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

I want Harris County to pay for the 911 Call to the hospital Bill, And pay me for Pain and Suffering.

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

David Eugene Spates #00283945

B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

① 0070116, ② 1356563, ③ 2066689 this is All My TDCJ #'s

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES ☒ NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): _____

2. Case number: _____

3. Approximate date sanctions were imposed: _____

4. Have the sanctions been lifted or otherwise satisfied? YES NO

C. Has any court ever warned or notified you that sanctions could be imposed? _____ YES ☒ NO

D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)

1. Court that issued warning (if federal, give the district and division): _____
2. Case number: _____
3. Approximate date warning was issued: _____

Executed on: _____
DATE

(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this Sept. 21 day of Sept., 20 20.
(Day) (month) (year)

David E. Spates
David E. Spates
(Signature of Plaintiff)

WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

INSTRUCTIONS FOR FILING
A COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

CIVIL RIGHTS SUIT - Pursuant to Title 42 U.S.C. §1983:

An action against a person who has acted under color of state law (such as a state official or employee) to deprive a person of rights secured by the constitution or laws of the United States. Civil rights suits filed by inmates generally involve conditions of confinement. Claims as to legality or duration of confinement must be brought in a petition for writ of habeas corpus.

NOTE:

Proof-read your complaint after completing the forms to insure compliance with all instructions.

Your complaint can be brought to this Court only if at least one of the named defendants is located within this district. Further, it is necessary for you to file a separate complaint for each claim you have unless the claims are all related to the same incident or issue.

CIVIL RIGHTS COMPLAINTS FORMS:

Civil rights complaint forms are available in prison unit law libraries. If you are not in prison, the court will provide a form. The form is to be used either as the initial complaint or as an additional questionnaire to supplement the initial complaint. The packet of civil rights forms available includes the following: (1) Instructions for filing a complaint for Violation of Civil Rights, (2) Complaint forms, and (3) Application to Proceed In Forma Pauperis.

FILING THE COMPLAINT:

To start a civil rights action, you must submit one original copy, one courtesy copy, plus one copy of the complaint for each defendant you name. For example, if you are naming two defendants, you would submit to Clerk:

- a) the original complaint for filing;
- b) two copies for the defendants (one for each defendant); and
- c) one additional copy (courtesy copy), for a total of four forms. You should keep one additional copy of the complaint for your records.

Each complaint form submitted must be verified. Verification may be accomplished by declaration pursuant to Title 28 U.S.C. §1746 or notarization. The complaint forms have a verification statement printed at the bottom of page 4. By verification, you are attesting to the truthfulness of your allegations and contents of your complaint.

All complaint forms and copies must be identical. All information must be identical. Forms from other districts should not be submitted.

Do not write on the back of the complaint forms. If you need more space, use additional sheets of paper. Your complaint and all other pleadings/documents must be legibly handwritten or mechanically reproduced. With regard to any attachments, exhibits or motions submitted with the complaint, sufficient copies must be provided for each required copy of the complaint. These may be handwritten or mechanically reproduced. The Clerk does not provide unless a fee of \$0.50 per page is paid.

TITLE OF THE ACTION:

In the initial complaint, "the title of the action: (David Eugene Spates Plaintiff vs Harris County Jail, Defendant)" should include the names of all parties. See: Rule 10 (a), Federal Rules of Civil Procedure.

DEFENDANTS:

You must provide the Clerk with the complete name and address of each defendant. If the first name is unknown, provide an initial. Otherwise, the Clerk cannot prepare summons for issuance of service of process by the Marshal. See: Rule 4 (j) of the Federal Rules of Civil Procedure.

STATEMENT OF CLAIM:

You are required to give facts regarding your grievance. THIS COMPLAINT SHOULD NOT CONTAIN LEGAL ARGUMENTS OR CITATIONS.

FILING FEE/FILING IN FORMA PAUPERIS:

The filing fee of \$ 150.00 should be paid by check or money order payable to the U.S.District CLERK. In addition the U.S. Marshal may require to pay the cost of serving the complaint on each defendant. The service fee of \$ 3.00 per defendant should be submitted on the clerk with the complaint.

If you are in prison or jail when you submit your application to proceed as a pauper ,you must attach a certified copy of your inmate trust fund account statement for six month period preceding the date that you are filing the complaint. If you are in TDCJ-ID, you may ask your law librarian for help in getting a copy of your account.

NOTE: If you are not incarcerated at the time of filing and you are paying the filing fee, it is your responsibility, not the U.S. Marshal's, to serve the defendant(s) with summons and complaint. The summons, however, must be under seal of the Clerk. Instructions for service when you are not incarcerated and are paying the filing fee may be obtained from the Clerk.

If you are unable to immediately pay the filing fee service costs of this action, you may petition the Court to proceed in forma pauperis. An Application to Proceed in Forma Pauperis is enclosed in this packet. The application must be verified pursuant to Title 28 U.S.C. §1746. A verification statement is provided on the reverse of the Application. If the court gives you permission to proceed as a pauper, arrangements will be made to collect the filing fee in installments.

RULE 11, FED. R. CIV. P.:

This rule states that only the signature of a pro se party or parties on pleadings will be acceptable to the Court.

INSTRUCTIONS WHEN MORE THAN ONE PLAINTIFF:

If you and any other plaintiff(s) have the same claims, events, and/or defendants to be stated in your complaint, these should be combined into the same complaint so that one case can be filed. Only if you have different claims, events, and/or defendants should separate complaints be submitted.

Each plaintiff must verify each complaint form by declaration pursuant to Title 28 U.S.C. §1746 or by separate notarizations. By verification, each plaintiff is attesting to the truthfulness of all allegations and contents of his complaint.

Each plaintiff will be required to provide an Application to Proceed In Forma Pauperis if the \$150.00 filing fee is not paid immediately.

When the complaint forms are completed, mail them to the Clerk of the U.S. District Court, Houston Division, P.O. Box 61010, Houston, Texas 77208. After your complaint is filed, a "Notification of Filing" will be sent to you. It will inform you of the civil action number (case number), the District Judge, and the Magistrate Judge assigned to your case.

FILING INSTRUMENTS AFTER SERVICE HAS BEEN ISSUED:

You must serve the defendant(s) or defense counsel with a copy of every pleading, letter, or other document submitted for consideration by the Court. The original of all documents filed with the Clerk should have a proper "Certificate of Service ". The following certificate should appear following the plaintiff's signature at the end of each instrument.

CERTIFICATE

I, _____ (name) _____, do hereby certify that a true and correct copy of the foregoing _____ (name of instrument) _____

has been served upon the defendant(s) by placing same in the U.S. Mail, addressed to

_____ (name and address of defendant(s) or counsel) _____

on _____ (date) _____ day of _____ (month) _____, (year) _____.

_____ (your signature) _____

Any pleading or other document submitted to the Clerk for filing which does not bear a proper Certificate of Service will be returned to the submitting party. All instruments (pleadings, letters, motions or other documents) pertaining to this case must be signed by all plaintiffs and must state the civil action number (case number).

IMPORTANT INFORMATION:

1. IF YOU DO NOT KEEP THE COURT ADVISED OF YOUR CURRENT ADDRESS, YOUR CASE MAY BE DISMISSED FOR WANT OF PROSECUTION.
2. Requests for any type of relief must be in the form of a proper motion, filed in a pending case. Please note that if you submit a letter requesting relief, it will not be treated as a proper motion.
3. It is improper to communicate directly with judges or magistrates concerning matters which are or may become a subject in their Court.
4. It is improper for Clerk, Judges, or Magistrates to give legal advice to litigants.
5. All documents and correspondence submitted to the Clerk must be on letter size paper (8 1/2 by 11 inches). Please do not use legal size (8 1/2 by 14 inches) paper.

HARRIS COUNTY SHERIFF'S OFFICE JAIL

Name: David E. Spates
SPN: DD283945 Cell: 5F4
Street 701 N San Jacinto St
HOUSTON, TEXAS 77002



INDIGENT

United States Courts
Southern District of Texas
FILED

SEP 29 2020

David J. Bradley, Clerk of Court



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